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28 March 1994

ORIGINAL: ENGLISH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-third session

SUMMARY RECORD OF THE 572nd MEETING

Held at the Vienna International Centre, Vienna,
on Monday, 21 March 1994, at 3 p.m.

Chairman: Mr. MIKULKA (Czech Republic)

CONTENTS

Opening of the session

Participation by non-member States

Adoption of the agenda

Organization of work

Schedule of meetings and utilization of conference services

General exchange of views

/...

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V.94 21973 7011E
Distr.: 29 March 1994

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CONTENTS (continued)

Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

The meeting was called to order at 3.20 p.m.

OPENING OF THE SESSION

1. The CHAIRMAN noted that since the Committee's past session, major changes had taken place in the world, many of which had had a direct impact on space activities. The United Nations system had likewise undergone numerous changes: as part of the overall restructuring of the Secretariat, the Office for Outer Space Affairs had been transferred to Vienna in October 1993. It was to be responsible for providing secretariat services for the Subcommittee, a function that had previously been performed by the Office of Legal Affairs, under the direction of the Subcommittee's Secretary, Mr. Basnayake. He thanked Mr. Basnayake for his many years of competent and devoted service and expressed the conviction that under the new Secretary, Mr. Jasentuliyana, the Subcommittee would continue to receive efficient support.

PARTICIPATION BY NON-MEMBER STATES

2. The CHAIRMAN said that Algeria, Cuba, Israel, Peru, Portugal, the Republic of Korea, South Africa, Turkey and Yemen had applied to participate in the work of the Subcommittee, and recalled that it was within the authority of the Committee on the Peaceful Uses of Outer Space to grant observer status. He suggested that the Subcommittee should not adopt a formal decision in that regard but that, if there was no objection, the representatives of those countries should attend its formal meetings and, in the event they wished to make a statement, should seek permission from the Chair.

3. It was so decided.

ADOPTION OF THE AGENDA (A/AC.105/C.2/L.194)

4. The CHAIRMAN drew the Subcommittee's attention to paragraphs 4 (a), (b) and (c) of General Assembly resolution 48/39 of 10 December 1993, entitled "International cooperation in the peaceful uses of outer space", which contained recommendations by the General Assembly relating to the current session, and said that, if there was no objection, he would take it that the Subcommittee wished to adopt the provisional agenda (A/AC.105/C.2/L.194) prepared by the Secretariat on the basis of that General Assembly resolution.

5. It was so decided.

ORGANIZATION OF WORK

6. The CHAIRMAN recalled that 1994 was the tenth anniversary of the entry into force of the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies. Under article 18 of the Agreement, the question of the review of the Agreement was to be included in the provisional agenda of the General Assembly in order to consider, in the light of past application of the Agreement, whether it required revision. Under Principle 11 of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space,

adopted by the General Assembly in its resolution 47/68 of 14 December 1992, those Principles had to be reopened for revision by the Committee on the Peaceful Uses of Outer Space no later than two years after their adoption. The Subcommittee might wish to make its views on those two matters known in its report to the Committee on the Peaceful Uses of Outer Space.

7. In accordance with the General Assembly's recommendations, open-ended working groups of the Subcommittee must be established on item 3 (nuclear power sources), item 4 (definition of outer space and the utilization of the geostationary orbit) and item 5 (benefits of outer space). Accordingly, he suggested that the three working groups on those agenda items should be re-established.

8. It was so decided.

9. The CHAIRMAN said that Mr. Helmut Freudenschuss, of Austria, who had chaired the Working Group on Nuclear Power Sources at the previous session, was not available for the current year. He suggested that Mr. Franz Cede, also of Austria, should be appointed Chairman of the Working Group.

10. It was so decided.

11. The CHAIRMAN said that, if there was no objection, he would take it that the Subcommittee wished to re-elect Mr. Estanislao Zawels, of Argentina, as Chairman of the Working Group on the Definition and Delimitation of Outer Space and the Utilization of the Geostationary Orbit.

12. It was so decided.

13. The CHAIRMAN said that, if there was no objection, he would take it that the Subcommittee wished to re-elect Mr. Raimundo González, of Chile, as Chairman of the Working Group on the Benefits of Outer Space.

14. It was so decided.

SCHEDULE OF MEETINGS AND UTILIZATION OF CONFERENCE SERVICES (A/AC.105/C.2/L.194)

15. The CHAIRMAN drew attention to the provisional schedule of meetings set out in document A/AC.105/C.2/L.194. The utilization of conference services was of great concern to the General Assembly due to the high cost of such services and the current financial constraints faced by the Organization. For a number of years, the Subcommittee had maintained the required efficiency in that area. It had done so owing to the adoption by consensus of various measures outlined in paragraph 13 of its report (A/AC.105/544).

16. The Subcommittee had agreed that an organization of work similar to that adopted at its thirty-second session should serve as a basis for organizing the work of its thirty-third session (A/AC.105/544, para. 15), and that agreement had been endorsed by the Committee on the Peaceful Uses of Outer Space at its June 1993 session. The Subcommittee had further agreed that, at its session in 1994, if the time provisionally allocated for the consideration

of an item was not fully used or was unlikely to be fully used, it should seek, on the basis of consensus, to use the time for the consideration of other items, or envisage the possibility of concluding the session ahead of the scheduled date. That agreement was reflected in paragraph 18 of the Subcommittee's report (A/AC.105/544). The Committee on the Peaceful Uses of Outer Space had reiterated its recommendation (A/48/20, para. 131) that the Legal Subcommittee, on a permanent basis, should rotate the order of consideration of substantive agenda items. The General Assembly had endorsed the recommendations and agreements concerning the organization of work for the Legal Subcommittee (General Assembly resolution 48/39, para. 6). Accordingly, he suggested that several arrangements similar to those adopted at earlier sessions should be employed at the current session. Having outlined those measures, as contained in document A/AC.105/544, paragraph 13, he further proposed that six formal afternoon meetings should not be scheduled and that, instead, an equal number of informal consultations should be planned. In addition, he noted that the measures outlined in document A/AC.105/544 provided for the possibility of the Subcommittee's concluding its session ahead of time. He believed it would be premature to take a decision on that matter now, and suggested it be examined at a later stage.

17. The adoption of the entire set of measures he had just outlined would, in his view, contribute greatly towards ensuring the optimum efficiency of the Subcommittee's work.

18. Mr. McRAE (Canada) said he had no objection to the proposed measures but wished to re-emphasize the importance of using flexibility in allocating time for consideration of items - an idea set out in paragraph 18 of the Subcommittee's report (A/AC.105/544). The transformation of numerous formal meetings into informal ones would not be productive if it merely delayed the Subcommittee's completion of the tasks on its agenda. The Chairman's remarks about the possibility of concluding the Subcommittee's session in advance, should be kept in mind as well. The Subcommittee should aim to conclude its session earlier than scheduled. He would not move for revision of the proposed schedule of meetings, but wished his comments to be taken into account as the session progressed.

19. Mr. REY CORDOBA (Colombia) said he endorsed the remarks just made: the Subcommittee should indeed take the ideas set out in paragraph 18 of its report duly into account. He agreed with the Chairman that the Subcommittee should consider the possibility of ending its current session before the scheduled date. That possibility could be kept in mind as the Subcommittee progressed with its work. Any decision to reduce the duration of the current session should not create a precedent for the duration of future sessions, since there might be cases when a full three-week session would be needed. In future, however, it would be advisable not to schedule meetings over holiday periods. Finally, he endorsed the Canadian delegation's comments to the effect that informal consultations should not be scheduled to the detriment of the Subcommittee's formal deliberations. He did believe, nevertheless, that where they were needed to advance the analysis of certain topics, informal meetings should be held.

20. Mr. de YTURRIAGA (Spain) said he shared the concerns expressed by previous speakers. The Committee's headquarters had only recently been transferred to Vienna, so the rhythm of the Subcommittee's work had been broken, and it might indeed be possible to complete its tasks at the current session in less than the scheduled three weeks. That should not, however, establish a precedent for future sessions. The schedule of work should be adjusted, possibly with a view to completing the session by 31 March 1994.

21. As for the informal consultations, he agreed that they should be held only when they appeared to be necessary to advance the Subcommittee's work on a given item, but he was not in favour of dispensing with them. His main concern was that they would not be serviced by interpreters.

22. The CHAIRMAN recalled that all the measures proposed in the Subcommittee's report had been approved by consensus in the Subcommittee and in the Committee on the Peaceful Uses of Outer Space. It would not be productive to reopen debate on that whole series of measures. He agreed with the representative of Canada that consideration should be given to how best to schedule informal consultations, but he would advise against cancelling such consultations. Through close coordination with the Chairmen of the Working Groups, it should be possible to strike an appropriate balance between informal and formal meetings of the Subcommittee.

23. In response to a question by Mrs. BATACLAN (Philippines), he drew attention to the provisional schedule of meetings (A/AC.105/C.2/L.194, annex) which indicated that, of the 12 afternoon meetings remaining to the Subcommittee, six were to be allocated for informal consultations.

24. Mr. TELLES RIBEIRO (Brazil) endorsed the proposed working arrangements outlined by the Chairman; he was certain that with the necessary flexibility and regular consultations with the Chairmen of the Working Groups the Subcommittee could complete its work successfully. Furthermore, while he appreciated the remarks by the delegates of Canada and Colombia, he underlined the very productive results of informal consultations in the past.

25. Mr. AYEWAH (Nigeria) considered the remarks by the Canadian and Colombian delegates very pertinent. He did not wish to call into question the value of informal consultations, but since the last four meeting days were mainly set aside for the adoption of the report, with the necessary effort it should be possible for the Committee to complete its work by 31 March. However, such proposals should not prejudice the duration of future sessions of the Legal Subcommittee.

26. Mr. MARÍA CURIA (Argentina) agreed on the need for flexibility and recognized the importance of informal consultations. However, as borne out by the proceedings of the previous session, further and new input from the countries concerned was clearly required in order to make headway on the last agenda item.

27. Mr. GONDANE (India) said that informal consultations were certainly necessary and produced speedy results. However, for a variety of practical reasons he agreed with previous speakers that it would be preferable for the current session to conclude its work by 31 March.

28. The CHAIRMAN said he took it that the Subcommittee wished to accept his proposals and adopt the schedule of meetings contained in document A/AC.105/C.2/L.194 on the understanding that such arrangements were flexible and subject to further consideration in due course.

29. It was so decided.

GENERAL EXCHANGE OF VIEWS

30. Mr. BYEHLY (Ukraine) said that, as a newly independent State, Ukraine attached great importance to all forms of international cooperation and in particular to the use of outer space for peaceful purposes. Ukraine's national space programme reflected its efforts to pursue a policy of peace and ensure the demilitarization of outer space. Despite the difficult economic situation in the country, the Government had managed to maintain its space research and application capabilities, most of which, for historical reasons, had been geared towards design and production of some of the most technologically advanced strategic missiles for the former Soviet army. The satellites used in the international programme "Intercosmos", as well as a variety of equipment for the "Salyut" and "Mir" programmes, had been manufactured in Ukraine.

31. The activities of the Ukrainian national space programme for 1993-1997 centred around observation of the Earth from space, the improvement of space transport systems, including the launching vehicle "Zenit", and the building of ground infrastructure.

32. In accordance with the recommendations of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space, appropriate activities were under way at two space research centres in Kharkov and Dnepropetrovsk; the Ukrainian space centre for research and international cooperation had been set up in Kiev and an aerospace faculty had also been opened at a Kiev polytechnic.

33. Notwithstanding its economic problems, Ukraine had honoured its various commitments under the intergovernmental space programme of the Commonwealth of Independent States relating, inter alia, to "Baikonur", the space ship "Soyuz-TM" and the Russian satellite "Meteor". It also had other projects in mind for which the cooperation of other States would be welcome. For instance the launching vehicle "Zenit", despite its advanced technological characteristics, was designed to cause minimum harm to the environment. For those reasons it could be used in conjunction with the geostationary communications satellite "Libid" which, although originally developed by Ukraine for domestic purposes, would undoubtedly be of interest to other countries for broadcasting purposes: it could serve a territory as large as Central Africa, ensuring its communications with Europe, Asia and America. Such a satellite might be purchased by a group of countries or perhaps even be operated under an international programme to assist developing countries.

In any case, Ukraine was ready to cooperate in the area by launching space vehicles with devices such as "Zenit" and using strategic missiles dismantled from military installations to launch commercial loads. It would also be interested in a joint project for the design of launching vehicles or supply of launching vehicle systems. Further research into other possible uses of "Zenit" would be welcome. However, the cost of such research could not be borne by Ukraine alone.

34. Ukraine had gained valuable experience in remote sensing of the Earth from space in many years of activities using state-of-the-art technology under the "Sich" project. In view of the important work being carried out by the Committee on the Peaceful Uses of Outer Space on remote sensing, which was of particular interest to the developing countries, it might be useful to take advantage of the scientific expertise and facilities available in Ukraine for international projects to study, inter alia, the Earth's natural resources, climate change and the prevention of natural disasters. In order to resolve such problems, which concerned the whole of mankind, the pooling of skills and efforts was not only necessary but also economically advantageous. He therefore called upon all countries interested to pledge their cooperation along those lines.

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION (agenda item 4) (A/AC.105/404, 544 and 571; A/48/20)

35. The CHAIRMAN drew attention to the report of the Legal Subcommittee on its thirty-second session (A/AC.105/544), in particular to chapter II and annex II.

36. The work of the Legal Subcommittee on the definition of outer space and on the geostationary orbit had been reviewed by its parent body, the Committee on the Peaceful Uses of Outer Space, at its June 1993 session. The Committee's report was contained in document A/48/20.

37. The question of the examination of the physical nature and technical attributes of the geostationary orbit had been considered by the Scientific and Technical Subcommittee at its recent session in February/March 1994. The Subcommittee's report was contained in document A/AC.105/571. In paragraph 86 of that report, the Scientific and Technical Subcommittee had requested that the study prepared by the Secretariat on the physical nature and technical attributes of the geostationary orbit (document A/AC.105/404) be brought to the attention of the Legal Subcommittee, and the Secretariat would therefore distribute copies of the relevant document to all delegations.

38. In resolution 48/39, the General Assembly had recommended that at its present session the Legal Subcommittee, taking into account the concerns of all countries, particularly those of developing countries, should continue its consideration of the item through the relevant working group.

The meeting rose at 4.50 p.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-third session

SUMMARY RECORD OF THE 573rd MEETING

Held at the Vienna International Centre, Vienna,
on Tuesday, 22 March 1994, at 10 a.m.

Chairman: Mr. MIKULKA (Czech Republic)

CONTENTS

Participation by non-member States

General exchange of views (continued)

Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union (continued)

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The meeting was called to order at 10.10 a.m.

PARTICIPATION BY NON-MEMBER STATES

1. The CHAIRMAN said that Nicaragua had submitted a request to attend the session as an observer. The granting of observer status was a matter for the Committee on the Peaceful Uses of Outer Space. However, he proposed that in accordance with the Subcommittee's previous practice, Nicaragua should be enabled to attend the formal meetings of the Subcommittee.

2. It was so decided.

GENERAL EXCHANGE OF VIEWS (continued)

3. Mr. HALFF (Netherlands) recalled that the Principles Relevant to the Use of Nuclear Power Sources in Outer Space had finally been agreed upon two years previously, after a long and tedious negotiating process. It was important now to render them effective in practice. They were, perhaps, capable of improvement, and he would not object to a revision, provided that it was necessary in the light of technological developments. If at any future time the Principles no longer matched the state of technology, it would be for the Subcommittee to adapt them to the new developments identified by the Scientific and Technical Subcommittee.

4. With regard to the definition and delimitation of outer space, it still needed to be decided whether there was a need for a specific legal regime for aerospace objects. As to the question of equitable access to and use of the geostationary orbit, the International Telecommunication Union (ITU) had already shown itself capable of dealing with the issues involved. His delegation would prefer to leave it to ITU to develop new rules if the need arose.

5. Turning to the legal aspects related to the application of the principle that the exploration and utilization of outer space should benefit all States, taking into particular account the needs of developing countries, he observed that the Netherlands had always advocated cooperation with developing countries in respect of the use of space technology and its application in developing countries. His country welcomed the efforts now being made by the European Space Agency and the European Union to identify ways of contributing in that field. Such cooperation could well take place in the area of Earth observation and remote sensing. The Netherlands would urge the developing countries to step up their cooperation with other international organizations, such as the Food and Agriculture Organization, the World Meteorological Organization and the European Organization for the Exploitation of Meteorological Satellites (EUMETSAT), in that area.

6. Mr. AVRAMENKO (Russian Federation) said that the Russian Federation attached great importance to international cooperation in the peaceful uses of outer space. The radical changes taking place in his country were requiring adjustments and changes throughout the space sector, and prestige projects were being subjected to stringent new requirements. However, the reforms were also opening up new prospects for partnership and cooperation in space, both nationally and internationally. Space activities in the Russian Federation were increasingly geared to the economic advantages to be gained. Legal

regulation was also making rapid strides, the starting point being the 1993 law on space activities. The adoption of an appropriately balanced development model for the space sector in Russia was no easy matter, but once the model was in place it would unleash the dynamic potential of the sector, and would enhance the prospects for international cooperation.

7. The peaceful uses of outer space depended, increasingly, on striking a proper balance among national interests. It was noteworthy that a number of countries had opted to work in partnership to relaunch the project for an international orbital station, an important element in the design and infrastructure of a future orbital complex. There were good prospects for regenerating the cooperative arrangements which had formerly existed between Russia and a number of East European and other countries in the Intercosmos programme, and for developing cooperation with other States, such as the member States of the European Space Agency, and China, India and Japan. Such cooperation helped to enrich existing traditions and to overcome narrow, selfish attitudes.

8. Observing that the international space market was an open market, he wondered how cooperation was best to be achieved, in view of the industrial character of space ventures. Cooperation in the various aspects of space activities was a complex process which did not fit readily into preconceived models. His delegation would do its utmost to foster creative collaboration among States in developing the institutional framework for cooperation, and in improving the effectiveness of new programmes and agreements.

9. Mr. AYEWAH (Nigeria) said that, in a changing international system, the work of the Subcommittee had become particularly relevant. His delegation welcomed the progress made during the Subcommittee's thirty-second session, especially on the proposed principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes. Good work had also been done in the discussions on the legal aspects of the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of the developing countries. In the formulation of principles to govern the conduct of States in the exploration and use of outer space, it should be borne in mind that global peace and security could best be assured by taking account of the developmental and other special needs of developing countries without space capabilities.

10. Responsibility for sharing space technology should not be viewed as imposing undue obligations on any State, but rather as a recognition of the value of interdependence among economies and of the utility of international cooperation in outer space. Legal principles relating to equity in outer space should recognize the need to develop indigenous space capabilities, especially in developing countries, by ensuring access to space resources and technology and the widest possible dissemination of the resulting benefits.

11. The use of the geostationary orbit must be seen to be judicious and equitable, taking into account the special needs of developing countries. Those countries must not be deprived of access to the orbit simply because they did not possess the requisite technology or resources to exploit it to advantage. His delegation agreed with the suggestion that developing

countries should enjoy preferential rights of access to suitable orbital positions and frequencies on the geostationary orbit. The boundary between airspace and outer space must be legally defined in order to cover the operations of space objects, especially those that had a dual purpose or were powered by nuclear sources. A legal regime was also needed to deal with space debris - its definition, jurisdiction and control - as well as State liability for any damage caused.

12. The role of the International Telecommunication Union (ITU) in the management and allocation of radio frequencies was acknowledged: the Subcommittee should cooperate with ITU in developing legal principles ensuring equity, access and efficiency. Those norms of positive law were already enshrined in the ITU instruments regulating the use of the geostationary orbit as a limited natural resource.

13. It was regrettable that, although the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, did recognize that outer space should benefit all, a handful of States with the relevant space capabilities had actually enjoyed most of the resulting advantages. International standards should be devised to ensure the widest possible access to space resources and technology. The development of a legal framework to facilitate and guarantee international cooperation and interdependence should eradicate inequalities in the enjoyment of the benefits of outer space.

14. As to the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, he favoured strict legislation to safeguard both outer space and the Earth environment, bearing in mind the hazards involved in using nuclear power sources in outer space, and the possibility of public exposure to radiation in the event of accidents. Following the adoption of General Assembly resolution 47/68, the Subcommittee should now focus on strengthening the Principles in the light of experience gained from their implementation and against the backdrop of rapid advances in space technology. It should begin to think about the possible revision of the Principles, without seeking to undermine the regime established.

15. Mr. HE QIZHI (China) said that the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee had, through the joint efforts of participating countries, achieved noteworthy results, including a fairly comprehensive system of space law that constituted the main legal basis for guiding the space activities of countries, reducing space conflicts and promoting the peaceful uses of outer space for the benefit of mankind. However, coordination was still needed on certain issues and in some areas big differences still existed.

16. His delegation considered that the Principles Relevant to the Use of Nuclear Power Sources in Outer Space contained a series of substantive provisions that were essential for the establishment of a legal system governing the use of nuclear power sources in outer space. The use of nuclear power sources in outer space offered great advantages but also involved enormous risks in the event of accident. Stringent principles had therefore to be laid down: such power sources should be used only for space missions that could not reasonably be powered by non-nuclear energy sources, they should not be used for military purposes, and care should be taken to protect the Earth environment and ensure the safety of human beings. The Principles

had brought great benefits and would not need to be revised unless rigorous scientific evidence proved that that was necessary. They should be taken as guidelines and implemented effectively.

17. Regarding the definition and delimitation of outer space, efforts had been made to break the impasse, but many difficulties remained. The draft questionnaire on aerospace objects circulated by the Chairman of the Working Group on the Definition of Outer Space and the Utilization of the Geostationary Orbit at the previous session might facilitate progress. His delegation would give it careful attention; the concept of aerospace objects had an important bearing on the discussions and the conclusions to be drawn.

18. With regard to the geostationary orbit, which was a limited natural resource, full account should be taken of the interests of all parties, particularly developing countries, and the discussions should be coordinated with ITU in order to contribute to a rational solution. The discussion at the previous session on working paper A/AC.105/C.2/L.192 had been very useful.

19. On the question of the benefits of outer space, working paper A/AC.105/C.2/L.182/Rev.1 submitted at the previous session on principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes had provided a good basis for discussion, and China hoped that further progress would be made. A wide range of topics was covered and serious discussion of the subject was of great importance.

20. China also considered the elaboration of international space law within the United Nations system to be very important. In its view, the exploration of space resources, the conduct of space activities and the use of outer space for peaceful purposes needed to be guaranteed by space law. Recent changes in the international situation should help the establishment of an international legal regime and the promotion of international cooperation. The Legal Subcommittee should seize the opportunity to strengthen the legal system pertaining to space.

21. Mr. RIANOM (Indonesia) said that the geostationary orbit was of major concern to developing countries trying to achieve national development objectives. It was the Subcommittee's task to establish a legal framework aimed in particular at the definition and delimitation of outer space to serve the interests and needs of all countries. His delegation welcomed the progress made so far. The working paper submitted at the previous session by a number of countries of the Group of 77 (A/AC.105/C.2/L.182/Rev.1) had provided a useful basis for constructive debate. Continued efforts to devise a viable legal framework would strengthen international cooperation, narrow the gap between space law and technological developments, and remove ambiguities in the present system. He noted that the Committee had agreed that the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, adopted by the United Nations General Assembly, should be implemented and also reviewed in the light of new developments in technology. The use of nuclear power sources in outer space, especially in regard to problems of launching and re-entry, needed to be monitored and controlled. Urgent attention should be paid to studying the development and use of nuclear power sources and to research on their possible negative effects on people, property and the environment, with a view to deciding on future measures. It was his delegation's ardent desire that the present session should produce concrete results for the benefit of all nations.

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION (agenda item 4) (continued) (A/AC.105/404, 544 and 571; A/48/20)

22. Mr. REY CORDOBA (Colombia) said that the working paper submitted by the Colombian delegation, in consultation with other interested delegations, at the previous session of the Subcommittee, and reproduced in annex IV to the Subcommittee's report (A/AC.105/544), sought to address various aspects of the subject that might serve as starting points for a future set of rules regarding the geostationary orbit. There had been many favourable reactions to the paper, which would, he thought, help to facilitate progress on a subject concerning which negotiations had been bogged down for many years.

23. It was sometimes suggested that the issue of the geostationary orbit should be managed exclusively by ITU. His country disagreed with that view. The General Assembly had requested the Subcommittee to consider matters "relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union" (see General Assembly resolution 47/67, operative paragraph 4 (b)). In other words, the General Assembly had asked that the subject should be considered bearing in mind the role of ITU, but it had not entrusted the subject to ITU as such. The distinction was very important. Though ITU could not be disregarded, its role was limited to telecommunications. In Colombia's view, the question of the geostationary orbit was a broader issue. The Subcommittee's mandate was clear and should not be misinterpreted. Nor could his country agree with the argument that ITU had already tackled and almost resolved problems concerning the management of the geostationary orbit. In regard to the planning of telecommunications services by ITU, it was well known that not even 40 per cent of the frequency bands had been covered. The Legal Subcommittee should discharge its mandate but do so in coordination with ITU.

24. His delegation's working paper took up and developed principles set forth in the international telecommunication treaties, including article 33 of the Nairobi International Telecommunication Convention. It took into account the acknowledged fact that the geostationary orbit was a limited natural resource.

25. Another problem which his country's working paper sought to resolve was the question of equitable access to the geostationary orbit and frequencies for various countries and groups of countries since it was well known that access to the orbit had not been in the past and was still not equitable. In his view, equitable access could be achieved only by means of preferential rights for countries so far without access to the geostationary orbit. His country's paper sought to break the barrier of inequity by asking that the general principles of existing treaties and positive law be developed so as to promote effective implementation and ensure that all countries enjoyed equitable access to the geostationary orbit and frequencies.

26. He hoped that his statement would clarify his country's philosophy and facilitate the emergence of a common view. In regard to equitable access to the geostationary orbit, he hoped that the Working Group could at last achieve concrete results.

The meeting rose at 11.15 a.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-third session

SUMMARY RECORD OF THE 574th MEETING

Held at the Vienna International Centre, Vienna,
on Wednesday, 23 March 1994, at 10 a.m.

Chairman: Mr. MIKULKA (Czech Republic)

CONTENTS

General exchange of views (continued)

Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union (continued)

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The meeting was called to order at 10.10 a.m.

GENERAL EXCHANGE OF VIEWS (continued)

1. Mr. ARIZAGA (Ecuador) said that the exploration and use of outer space should be for the benefit and in the interest of the entire international community, particularly the developing countries, for which international cooperation played an important role. With regard to the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, it was the view of his delegation that they must be observed, and that the use of nuclear power should be a last resort; it was necessary to monitor and control such activities.

2. Ecuador was also very concerned about the extent of space pollution, especially in the geostationary orbit, with regard to which it had adopted a clear and coherent position.

3. Mr. TELLES RIBEIRO (Brazil) expressed his full agreement with the measures adopted at the thirty-second session of the Subcommittee to guarantee effective utilization of conference services and supported the measures regarding a reduction of the time allocated for its work, on the understanding that such a decision would be taken on an ad hoc basis only and would not have a negative impact on the Subcommittee's ability to perform its primary task of perfecting international space law.

4. With regard to the question of the early review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, his delegation had noted with satisfaction the statement made by the United States delegation at the thirty-first session of the Scientific and Technical Subcommittee to the effect that the United States authorities had concluded that their practice was consistent with the guidelines set forth in the Principles approved by General Assembly resolution 47/68, and that consequently the United States would not be seeking an early review of the Principles. It was the understanding of the Brazilian delegation that any such revision should be undertaken only if the scientific and technical debate on the matter produced evidence that it was really necessary, and, moreover, that it should be geared to strengthening the safety levels provided by the Principles, given their significant environmental implications.

5. With regard to matters relating to the character and utilization of the geostationary orbit, the exchange of views that had taken place at the last session on document A/AC.105/C.2/L.192 provided a sound basis for future work, but there was room for exploring fresh approaches. Consideration might be given to the holding of a seminar on possible legal implications of the existence of space debris in the geostationary orbit, in conjunction with the thirty-fourth session of the Subcommittee. It was only logical to suppose that the public interest in environmental issues aroused by the United Nations Conference on Environment and Development held at Rio de Janeiro would eventually be extended to the outer space environment, and the Subcommittee must be prepared to deal with relevant questions before it was overtaken by them.

6. Regarding the definition and delimitation of outer space, his delegation hoped that the consultations under way would enable the suggested questionnaire to be finalized and sent to member States as a way of advancing consideration of the issues. The drafting of some introductory paragraphs for the questionnaire by the Chair, for examination by the Subcommittee, would be helpful in that regard.

7. At the previous session, a group of delegations including his own had submitted document A/AC.105/C.2/L.182/Rev.1 on the agenda item concerning the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States. Brazil would continue to seek to bring the positions of delegations closer together, and was confident that the Subcommittee would continue to move closer to a consensus on the very important question of promoting international cooperation in the peaceful uses of outer space between developed and developing countries, so that all mankind might benefit from the applications of outer space technology in the economic, social, cultural and environmental fields.

8. Finally, he would like to mention that a civilian Brazilian Space Agency had recently been set up to coordinate national space activities, and that the Brazilian Government had also publicly declared its intent to follow the guidelines of the Missile Technology Control Regime, which were designed to limit the risks of proliferation of weapons of mass destruction.

9. Mr. RASHKOW (United States of America) welcomed what the Chairman had said at the opening of the session (see document A/AC.105/C.2/SR.572) about improving the efficiency of the Subcommittee's work. The Subcommittee had made significant advances in improving its efficiency, but the United States did not entirely share the Chairman's optimistic evaluation of the progress that had been made in the utilization of conference services. There was a growing consensus among members of the Subcommittee that the matter should be addressed, but more remained to be done. At the thirty-second session of the Subcommittee, a number of meetings had either ended prematurely or been cancelled because of a lack of substantive participation or for other reasons. The United States welcomed the Chairman's reference to the measures adopted at the thirty-second session, including the agreement that consideration should be given to reducing the length of the present session if it appeared that the time allocated for the work was not necessary - without prejudice to the length of future sessions. The United States supported the view that a goal should be to complete the work by 31 March 1994, if practicable. In that regard, a significant contribution could be made by dramatically reducing the time allocated to the discussion of nuclear power sources.

10. The United States had completed its review of its position on the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, and had determined that, while the Principles had no binding effect, United States policy in practice was fully consistent with their overall objectives and intent. A rigorous safety review process took place before nuclear power sources were launched, and the Principles would not affect planned missions. For that reason, his delegation did not intend to make specific proposals for revision of the Principles at the present time. The Principles had brought great benefits, and there was no need for hasty consideration of revisions;

continued debate on the Principles at the present time was not a very fruitful use of resources.

11. The United States hoped that the time devoted to the other agenda items would also be reduced, although probably not to the same extent.

12. Mr. KINGHAM (Czech Republic) said that the Czech Republic, as a successor State of Czechoslovakia, had become the treaty party to all space law instruments previously ratified by the former federation. His Government considered it essential, for the sake of the future development of the national space programme, that the treaties should continue to apply without interruption. Research in the magnetosphere and the ionosphere had been carried out by Czechoslovakia by means of two satellites, the "MAGION 2" and the "MAGION 3", launched in 1989 and 1991. The Czech Republic had now become the launching State for those satellites. Two similar satellites, developed in collaboration with Austria, France, Germany, Poland, Slovakia, Romania and the Russian Federation, had been designed for the "INTERBALL" mission, the purpose of which was to study the physical mechanisms of solar wind energy accumulation in the magnetosphere, and energy dissipation in the auroral regions.

13. Turning to the question of the definition and delimitation of outer space, he noted that there was still no agreed definition of where airspace ended and outer space began, even though the two areas were subject to different legal regimes. One reason was the absence of any natural boundary between the two; another was the assumption that any safe and reasonably economical orbit was likely to be in outer space. His delegation would prefer to adopt a pragmatic approach, focusing on problems arising from the potential conflict of space law and air law in respect of specific activities, such as aerospace flights. He welcomed the idea of a questionnaire to help identify the practical needs of the international community in that respect.

14. With regard to the character and utilization of the geostationary orbit, he was glad to note that the paper submitted by Colombia did not compromise the principle of non-appropriation of outer space. It therefore represented a certain advance in comparison with previous proposals.

15. General Assembly resolution 48/39, paragraph 4 (a), endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee, at its current session, should consider the question of early review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space. His delegation shared the view that revision of the Principles would be appropriate only if a substantial change occurred in the field of scientific and technical development. However, that should not prevent the Subcommittee from discussing possible new provisions to address specific unresolved problems, such as that proposed by the United Kingdom in the Scientific and Technical Subcommittee (see document A/AC.105/571, para. 59).

16. Mr. AVRAMENKO (Russian Federation) said he wished to outline the progress made in Russia in the legal regulation of space activities. A Law on Space Activities had been signed by the President of the Federation in August 1993. According to the new Law, the purpose of such activities was to enhance the welfare of Russian citizens, to promote the development and security of the

country, and to resolve global problems. The principles underlying space activities included: the equality of corporations and individuals with respect to participation in space activities; the accessibility of information about those activities; safety, including the protection of the environment; and cooperation with the international community in space affairs. The Law prohibited the placing and testing in space of nuclear weapons and other weapons of mass destruction, the use of space technology to influence the natural environment for military or other hostile purposes, and the pollution of space. All other space activities which were prohibited by international treaties to which the Russian Federation was a party were likewise prohibited.

17. In the Russian Federation, space activities were the responsibility of the Federal authorities. The Parliament decided on Russia's space policy, and adopted the federal space programme; the President was responsible for the implementation of the policy; and the Government was the executive arm for space operations. Space activities, whether for scientific or for economic purposes, were carried on under the aegis of the Russian Space Agency. Space activities for defensive purposes were carried on by the Ministry of Defence. In certain cases prescribed by law, the Ministry could mobilize any part of the infrastructure, including space technology.

18. The Law established a permissive regime for space activities for scientific and economic purposes. Activities carried on by corporations and individuals in the Russian Federation, or by foreign corporations and individuals under Russian jurisdiction, had to be licensed if they included the testing, manufacture, storage, preparation for launching or launching of space objects, or the sending of space missions. The Law also contained detailed regulations for the certification of space technology and for expert investigations of space activities.

19. Space activities were financed by a special appropriation from the budget of the Federation, apportioned among contractors carrying out State commissions. The new Law provided guarantees for foreign investors funding activities under the federal space programme. The Law also provided for the establishment of a national fund for space science and industry, to be constituted from budget appropriations and extrabudgetary funds, profits from space projects, insurance contributions from corporations and individuals, and voluntary contributions. The Fund's reserves were used to finance the federal space programme, to support innovative and conversion projects in space, to fund programmes using the findings of space ventures, to insure such ventures, and to eliminate the effects of accidents.

20. Space equipment could be operated either by its owners, or by other corporations and individuals by agreement with the owner. The components of the equipment might belong to a number of different corporations and individuals. A corporation operating space equipment which was the property of the Federation would ensure, under contract, that it could also be used by other interested corporations and individuals. The use and transfer of space technology was subject to the intellectual property rights protected by law. Work on space technology did not carry with it the obligation to transfer the technology to the client, unless the contract contained a clause to that effect. The ownership of products made in space lay with the corporations and individuals owning the components of the space technology used to produce them, unless otherwise stipulated. Likewise, information generated as a

result of space activity normally belonged to those who had generated it. Rights of jurisdiction and control over space objects, and rights of ownership of such objects, did not affect the legal status of the territory occupied by them in space.

21. With regard to space flights, the law provided that a space object launched by a foreign State could make one safe journey through Russian airspace for the purpose of launching into the Earth's orbit or into space, or for the purpose of returning to the Earth, provided the Russian authorities were informed in a timely manner of the time, place, trajectory and other circumstances of the flight.

22. The section of the Law dealing with international cooperation provided that international treaties of the Russian Federation on space activities must be ratified by the Parliament. It was also provided that the Russian Federation would help to develop international cooperation in space activities, and to resolve international legal problems associated with the exploration and utilization of outer space.

23. The last section of the Law dealt with issues of liability. There was a clause providing for compensation for direct loss or damage incurred as a result of space activities carried out in accordance with the law of the Russian Federation.

24. Mr. MARÍA CURIA (Argentina) said his delegation agreed that the present relaxed climate in international relations should be used to advance the work of the Subcommittee. His delegation was conscious of the importance of completing the progressive development of an international legal regime to govern space activities which took account of the interests of all States, and especially those of the developing countries.

25. With regard to the definition of outer space, he felt that the draft questionnaire prepared at the Subcommittee's previous session was very useful. As to the geostationary orbit, the working paper submitted by Colombia at the previous session (see document A/AC.105/544, annex IV) incorporated some important ideas which should enable progress to be made. Regarding space benefits, a revised working paper (A/AC.105/C.2/L.182/Rev.1) had been submitted to take into account comments made. Work on the topic should be pursued with a view to reaching a consensus.

26. He welcomed the start made in the Scientific and Technical Subcommittee on dealing with the question of space debris. The Legal Subcommittee should also take up the question. He supported the suggestion of the Brazilian delegation that a seminar should be held on that subject in conjunction with a session of the Subcommittee.

27. Turning to the organization of work, he said that his delegation favoured a measure of flexibility in the allocation of meeting time. The time allotted to agenda item 3 could be reconsidered, but that should not be allowed adversely to affect the other items on the agenda, which were of great importance for most delegations. He also suggested that the Subcommittee should begin thinking about the question of its headquarters to enable a consensus to be reached on that matter and on the question of rotating or not rotating the venues of its sessions.

28. Mr. SUAREZ (Mexico) said that his country wished to reiterate its suggestion made at the recent session of the Scientific and Technical Subcommittee that the Committee and its two Subcommittees should coordinate their work with the Conference on Disarmament. Paragraph 34 of General Assembly resolution 48/39 urged all States to contribute actively to the goal of preventing an arms race in outer space as an essential condition for promoting international cooperation in the exploration and use of outer space for peaceful purposes. Taking up an initiative of the Latin American and Caribbean Group, the Group of 77 had included in its working paper A/AC.105/C.1/L.199 explicit mention of the link between the peaceful use of outer space and efforts to prevent the proliferation of nuclear weapons. In his country's view, there should be no problem of form or substance to prevent the Committee and its two Subcommittees from beginning jointly to consider all the legal and technical issues relating to space debris, including its definition, jurisdiction and control and the liability for any damage that might be caused. Owing to the need to consolidate the legal regime in that area, his Government attached importance to establishing a boundary between airspace and outer space and considered that the issue should not be disregarded by the Legal Subcommittee merely because of its complexity. In Mexico's view, the working paper submitted by the Russian Federation on questions concerning the legal regime for space objects and the proposal submitted by Colombia concerning the geostationary orbit (see document A/AC.105/544) provided a good basis for discussion.

29. His Government would like to see the work of the Subcommittee expanded to take account of matters relating to the strengthening of the Convention on Registration of Objects Launched into Outer Space, means of ensuring universal application of the legal regime relating to outer space and the steps needed to turn the Principles Relating to Remote Sensing of the Earth from Outer Space into an international agreement.

30. Mr. McRAE (Canada) expressed his agreement with the comments made by the representatives of Brazil and Argentina, among others, regarding the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, and particularly with the view that there should be scientific and technical evidence of a need for a review of the Principles before any such exercise was undertaken. Any amendment to the Principles would reopen old debates and might well jeopardize the present compromise. States needed time to test the Principles in practice. He also associated himself with the views expressed by the representative of the United States of America regarding the amount of time to be devoted to the subject at the current session and questioned the need to re-establish the Working Group on Nuclear Power Sources. The Subcommittee should perhaps reconsider its decision in that regard so that the duration of the present session could be reduced.

31. He welcomed the interesting suggestion put forward by the representative of Brazil concerning a seminar on space debris. Though the representative of Brazil had not suggested placing an item in that regard on the agenda of the Subcommittee, he would be prepared to consider that possibility. The environmental aspects of the issue should be addressed. He would be interested to hear further ideas on the subject of the suggested seminar.

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION (agenda item 4) (continued) (A/AC.105/404, 544 and 547; A/48/20)

32. Mr. RAMIREZ LANDAZURI (Ecuador) said that the submission of a number of working papers during recent sessions was evidence of renewed interest in the issues covered by agenda item 4. Further discussion might open the way to the formulation of principles on the subject, in view of the fact that the Subcommittee had come up with principles in other areas despite an initial absence of unanimity.

33. His country considered that account should be taken of the need to set up a special sui generis legal regime to regulate access to and use of the geostationary orbit, paying due attention to the special gravitational characteristics that were found only in the equatorial plane, putting equatorial countries in a special position. The legal regime in question should take account of the rights of all States to benefit from the orbit as well as the particular needs of developing countries, including equatorial countries.

34. His country did not regard the geostationary orbit as an integral part of outer space. There existed no valid and satisfactory definition of outer space that could be invoked to assert that the geostationary orbit was part of outer space. Healthy and transparent international cooperation was an important means of guaranteeing that the geostationary orbit would be used exclusively for peaceful purposes for the benefit of all mankind. Such cooperation should provide for the future needs of developing countries, including those lying under the orbit.

35. Access to and the preservation, use and benefits of the geostationary orbit, which was a limited natural resource, were of great interest to the international community as a whole. It was essential to avoid over-exploitation and saturation of the orbit and its pollution by space debris. Shortly before the end of their life-span, therefore, satellites should be transferred to a disposal orbit. The problem of the saturation of the orbit made it necessary for the international community to devise safeguards to ensure the possibility of future access to the orbit for all States. The working paper submitted by Colombia (A/AC.105/C.2/L.192) provided a good basis for continued efforts to carry out the mandate given by the General Assembly. There should be close coordination with ITU, whose work was eminently of a technical nature, limited to telecommunications and frequencies, while the task of the Committee on the Peaceful Uses of Outer Space and the Legal Subcommittee was to study the legal aspects of the geostationary orbit. In the development of rules, it must be borne in mind that the orbit was a limited natural resource, that all countries should enjoy equitable access to it and that special account should be taken of the interests of developing countries and equatorial countries. As the geostationary orbit could become saturated, access to and the use and benefits of the orbit should clearly not be limited to countries with certain technical and financial capabilities but must also take account of the aspirations of developing countries and the interests of equatorial countries. It was

essential to devise a preferential scheme that would put an end to the present inequitable situation. Clear equitable rules should be devised to enable the benefits of space exploration to be shared among all countries regardless of their state of development and technological know-how.

36. His delegation supported the suggestion of the Brazilian delegation for the holding of a seminar to consider the implications of space debris in the geostationary orbit.

37. Mr. BARSEGOV (Russian Federation) said that the discussions on agenda item 4 now seemed to be entering a new phase. The Colombian working paper (A/AC.105/C.2/L.192) marked a new stage in the search for possible solutions. The new ideas that were now being put forward should help to bring the discussion out of its current impasse, and open up new possibilities for agreement.

38. In his view, the problem of delimitation of outer space should be capable of solution. The chief concern should be to achieve a proper balance between the interests of States and the requirements of future space activities.

39. The presence in space of a variety of aerospace objects should not serve as a pretext for refusing to set limits. Delimitation was already established practice in the maritime field. Thus, the seas were divided into a number of recognized categories, each with its particular legal status: internal waters, the territorial sea, exclusive economic zones, archipelagic waters, the open seas, and seas that were regarded as part of the common heritage. That delimitation did not interfere with freedom of navigation. There was no reason why outer space should not be separated from airspace and some degree of regulation established over activities carried out in both spheres.

40. The Subcommittee should not be envisaging a single international regime, which from the legal standpoint would be an impossibility, but rather a variety of regimes governing different areas. There was as yet no agreed view as to the altitude at which limits should be set, but the Subcommittee could at least go some way towards reaching a solution. A start could be made by undertaking a study of all proposals put forward hitherto, and analysing the arguments advanced in favour of one or the other. Criteria could be developed for the selection of solutions. As far as use of the intermediate zone was concerned, it might be possible, pending agreement on a specific definition, to try to develop a special regime which would contain elements of existing international law. The intermediate zone, like outer space, would not belong to individual nations. Such a special regime would provide for the monitoring of man-made objects in the zone, and would oblige the launching State to provide notification to States over whose territories the object would pass, concerning, for instance, duration of passage, power sources of the apparatus, and the purpose of the flight. The format for such a notification would be modelled on the regime governing airspace.

41. It might be asked why a country such as his own, which was actively involved in space activities, should be raising the question of delimitation, since solution of that question might limit the area available for its activities. He wished to stress that his country's current position on the issue of delimitation was the result of a careful reassessment of the policy it had pursued over many years. With all the technological capabilities at

its disposal, the Russian Federation could have confined itself to working within its own national rules, and disregarded the need to establish an international regime. However, it believed that the interests of society in general, and in the final analysis the interests of every individual country, called for broader, more objective and longer-term solutions.

42. Mr. FADYL (Indonesia) said that useful discussions had taken place at the previous session. However, in view of the rapid development of outer space technology, as well as the complexity of the problems involved, he believed that further consultations should be held to clarify areas of concern to some delegations.

43. He wished to reiterate his delegation's concern at the fact that the geostationary orbit was becoming increasingly overcrowded with satellites. The orbit had now been recognized by all Member States as a limited natural resource, and there was a need to intensify discussion aimed at the establishment of a special legal regime to govern it. He welcomed the Colombian working paper (A/AC.105/C.2/L.192) as a basis for establishing principles which could regulate - without prejudice to the role of the International Telecommunication Union - the utilization of the orbit for the benefit of all States, and in particular of the developing countries.

The meeting rose at 11.45 a.m.